

FILED: June 24, 1996

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 96-1306

ANN RYDER,

Plaintiff - Appellant,

versus

FRANKLIN FREEMAN, in his official capacity as
Secretary of the North Carolina Department of
Correction,

Defendant - Appellee.

O R D E R

Appellee filed a motion to dismiss on the grounds of mootness.
Appellant filed a response.

The Court grants the motion.

Entered at the direction of Judge Phillips with the
concurrence of Judge Russell and Judge Williams.

FOR THE COURT

/s/ Bert M. Montague

Clerk

FILED: October 29, 1996

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versus

FRANKLIN FREEMAN, in his official capacity as
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Defendant - Appellee.

O R D E R

By order filed on June 24, 1996, we dismissed appellant's appeal as moot because in the interval appellant had submitted to the pepper-spray exposure requirement which her action had sought to enjoin. In responding to and resisting the appellee's motion to dismiss on mootness grounds, the appellant had moved that if the dismissal motion were granted, this court should remand the action with instructions to the district court to vacate its judgment in accordance with the principles of United States v. Munsingwear, Inc., 340 U.S. 36 (1950), and U.S. Bancorp Mortgage Co. v. Bonner Mall Partnership, 513 U.S. 386 (1994). To allow consideration of appellant's vacatur motion pending dismissal of the appeal, we

stayed issuance of our mandate for that purpose. Having now considered appellant's motion with supporting memorandum and appellee's responsive submissions, we have concluded that the motion should be granted.

It is accordingly ORDERED that, in conjunction with our dismissal of appellant's appeal as moot, this action is remanded to the district court with instructions to enter an order vacating its judgment of February 22, 1996. The mandate shall issue forthwith.

Entered at the direction of Senior Judge Phillips, with the concurrence of Judge Russell and Judge Williams.

FOR THE COURT

/s/ Patricia S. Connor

Clerk